

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/084,283	DIDUCH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JING RUI OU	3773	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed on 09/08/2010 and interview conducted on 09/08/2010.
2. ☒ The allowed claim(s) is/are 50,56,57 and 67-69.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>09/15/2010</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date ____     | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                           |
|  | 9. <input type="checkbox"/> Other ____.  |

/J.O./	/(Jackie) Tan-Uyen T. Ho/ Supervisory Patent Examiner, Art Unit 3773
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## DETAILED ACTION

### *Examiner's Amendment*

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Fariborz Moazzam on 09/15/2010.

The application is amended as follows (Amending claims 56, 57, 67, and 69 and canceling 53, 59-66, and 70-75):

53. (Canceled).

56. (Currently amended) The device of claim ~~[[53]]~~ 50, wherein said opening in said jaw extends through a middle region of said jaw such that said jaw is removable from around a side of a strand of suture that has been passed into the soft tissue.

57. (Currently amended) The device of claim ~~[[53]]~~ 50, wherein said opening in said ~~first elongate member~~ distal portion of the elongate member comprises an eyelet.

59-66. (Canceled)

67. (Currently amended) The device of claim [[62]] 50, further comprising a handle to manipulate movement of the jaws.

69. (Currently amended) The device of claim 50, wherein the elongate member is substantially non-hollow.

70-75. (Canceled).

***Reasons for Allowance***

2. The following is an examiner's statement of reasons for allowance: The prior art fails to disclose or suggest, in combination with other limitations of the claims, an elongate member positioned substantially within and slideable through the lumen of the body, the elongate member including a distal portion having superelastic properties, the distal portion further including a transverse opening for carrying a suture therein, and wherein the suture is positionable completely outside of the lumen of the cylindrical body and a puncturing projection at the most distal end of the distal portion of the elongate member and slideable through the lumen of the body, the puncturing projection movable between a first position wherein the distal portion of the elongate member is in a substantially straight stressed configuration substantially contained within the lumen of the cylindrical body and between the first jaw and the second jaw and a second position wherein the distal portion of the elongate member is in a substantially curved unstressed configuration and extendable distally through and

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beyond the opening in the first jaw such that the opening in the distal portion carrying the strand of suture is positioned completely outside of the first jaw and the second jaw.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JING RUI OU whose telephone number is (571)270-5036. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, UYEN (JACKIE) HO can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. O./

Examiner, Art Unit 3773

09/18/2010

/(Jackie) Tan-Uyen T. Ho/

Supervisory Patent Examiner, Art Unit 3773